STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	:	
	:	No. 14-0312
Annual formula rate update and revenue requirement reconciliation under Section 16-108.5 of the Public Utilities Act	:	

PROPOSED ORDER OF
<u>THE RETAIL ENERGY SUPPLY ASSOCIATION</u>

X. OTHER

C. POTENTIALLY CONTESTED ISSUES

2. CUSTOMER CARE COSTS

Procedural History

In its last rate design proceeding (Case No. 13-0387), the Commission directed Commonwealth Edison ("ComEd") "to provide an updated Customer Cost Allocation Study that allocates customer care costs between supply and delivery service functions in the next formula rate update filing." On April 16, 2014 ComEd filed an application to initiate its annual formula rate update and revenue requirement reconciliations. ComEd's filing included an Allocation Study. In addition, ComEd also filed an Alternative Study and a Switching Study. In rebuttal testimony, ComEd updated each of these studies to reflect ComEd's indirect costs.

The following witnesses presented testimony regarding customer care costs: Matthew White (Retail Energy Supply Association ("RESA")), Ronald Donovan (ComEd), Christine Brinkman (ComEd), Russell Feingold (ComEd), Ross Hemphill (ComEd), Philip Rukosuev (Staff), and Kevin Wright (Illinois Competitive Energy Association ("ICEA")).

Legal Standards

Section 20-102 of the Public Utilities Act (220 ILCS 5/20-102) provides "(a) competitive wholesale electricity market alone will not deliver the full benefits of competition to Illinois consumers. For Illinois consumers to receive products, prices and terms tailored to meet their needs, a competitive wholesale electricity market must be closely linked to a competitive retail electric market." And Section 9-250 of the Public Utilities Act (220 ILCS 5/9-250) provides that "whenever the Commission . . . shall find that the rates or other charges . . . are unjust, unreasonable, discriminatory or preferential . . . the Commission shall determine the just, reasonable or sufficient rates or other charges."

RESA POSITION

RESA believes that the Commission must make two determinations in this proceeding (1) whether a portion of ComEd's customer care costs should be allocated to the default supply rate; and (2) if the Commission determines customer care costs should be allocated to the supply rate, the appropriate level of cost allocation.

RESA's position is that ComEd and Staff incorrectly rely upon the Switching Study to allocate zero customer care costs to the default supply rate. Further, RESA claims that ComEd's Switching Study analysis is based on the fundamentally flawed premise that cost allocation should be contingent on customer care costs decreasing as customers switch from Rate BES supply service. This argument was also rejected by the Commission in Docket 13-0387, p. 56 ("The increase in customer care costs and the concomitant increase in number of delivery services customers does not prove the total absence of costs for ComEd's supply customers.").

RESA highlighted in its testimony that ARES must provide customer care services to their customers and that those costs cannot be recovered through ComEd's delivery rates; rather, those costs are reflected in the supply prices ARES charge customers (RESA Ex. 1.0, p. 7). While customer care is an important aspect of retail electric service—it is not free. But ComEd's Switching Study analysis ignores this underlying reality. Under the current methodology, and ComEd's Switching Study, 100% of the customer care costs are allocated to delivery service, and 0% of those costs are allocated to supply service. Default supply service is thus leveraging distribution assets to provide customer care service to default supply customers at zero cost, and this subsidy artificially distorts the competitive landscape by making default service appear to be lower priced than it actually is in comparison with ARES-provided supply service. Simply put, ComEd's failure to allocate a reasonable portion of its customer care costs to its supply function results in all delivery customers paying those costs through their delivery rates, including those on ARES-provided supply service. Since ComEd's delivery rates recover all of these costs, ComEd's default supply rate avoids a category of costs that must be recovered in ARES' competitive prices. This amounts to discriminatory and preferential treatment given to the supply rate and a requirement that ARES' customers pay twice for customer care costs. Furthermore, an allocation of zero customer care costs to ComEd's supply function appears to be an arbitrary allocation in the face of the reality that some level of these costs are needed for ComEd to provide its Rate BES service.

RESA also submits that default supply service is a product that competes against all other products in the retail electric market. Customers must either choose to enroll in the default rate product or a product offered by the ARES, so in the most basic logical sense (as opposed to one that is based on statutory definitions), default service is a competitive product. RESA notes that this approach is grounded on the premise that the supply service rates ComEd offers are compared by customers on a competitive basis to those prices offered by ARES in the competitive market. Thus, by requiring ARES to recover customer care costs through their rates and charges from Choice customers but allowing ComEd to recover its customer care costs through distribution rates from all customers, including Choice customers, the default supply rate has an anti-competitive advantage. To correct ComEd's preferential, discriminatory, arbitrary and anticompetitive rates, RESA submits that the Commission should allocate a portion of ComEd's customer care costs to the default supply rate.

RESA also states that it does not propose that ComEd be disallowed recovery of its customer care costs. RESA did not contest that ComEd's customer care costs are reasonable and appropriate, but are simply placed in the wrong "bucket" (*i.e.*, distribution rates) for collection. Rather RESA is proposing that a portion of customer care costs be recovered through the default supply rate, Rate BES, rather than delivery rates. Allocating customer care costs to the supply rate will not prejudice ComEd nor will it impede ComEd's ability to provide Provider of Last Resort ("POLR") service. RESA states that ComEd's status as the POLR has no bearing on whether the supply rate should rightly reflect the cost of providing customer care needed to support supply service. It is vitally crucial, in order to maintain a competitive market, that costs incurred by those utilities that maintain a merchant function, be collected in a manner appropriate to the service provided. To do otherwise can, as here, lead to a rate tilt that disadvantages competitive services on price. And customers shop, and make their service choices based on those price signals.

RESA states that whether ComEd may receive calls related to ARES activity does not justify allocating zero customer care costs to the default supply rate. This number is a tiny fraction compared to the calls that ComEd receives relating to supply service or supply charges on the ComEd bill. And customers call into the ARES' call centers to discuss matters that relate to distribution service (RESA Ex. 1.0, p. 26).

RESA notes that other jurisdictions, including New York, Pennsylvania, and Maryland, are continuing to unbundle services, such as customer care costs. RESA believes that the Commission should follow their example and continue to take a leading role in further development of competitive markets

RESA states that, as a general principal the Commission should allocate to the default supply rate a portion of the same categories of cost that are currently being recovered through delivery rates that other competitive retail electric products in the market must incur. RESA argues that to provide competitive parity, the Commission should adopt as a starting point ComEd's Updated Allocation Study, which was updated to include indirect costs and which would allocate approximately $21 million to the supply function. RESA witness White testified that the allocation factors used by ComEd in its Updated Allocation Study were skewed toward allocating costs toward the distribution function. RESA witness White utilized modified allocation factors which he analyzed and RESA finds to be more equitable. RESA's Modified Allocation Study would allocate approximately $52 million to ComEd's default supply rate (RESA Ex. MW 2.1). RESA contends that its Modified Allocation Study provides the closest proxy to the amount of customer care costs necessary to support default supply service.

RESA states that, in the alternative, at a minimum, the Commission should adopt ComEd's Updated Alternative Study, which was updated to include indirect costs and which would allocate approximately $11 million to the supply function, as modified by RESA witness White (RESA Ex. MW 2.1), to allocate approximately $34 million of ComEd's call center expenses to the default supply rate. In support of its fallback position, RESA points outs that

Illinois law requires ARES to maintain a call center. Specifically Section 16-123 of the Public Utilities Act (220 ILCS 5/16-123) provides that “all electric utilities and alternative retail electric suppliers shall be required to maintain a customer call center where customers can reach a representative and receive current information.” But, ComEd currently collects its call center expenses through distribution rates whereas ARES must collect their call center expenses through competitive charges. RESA states that ARES are statutorily required to incur call center expenses and that ComEd concedes that these expenses do in fact decrease as switching occurs. Thus, RESA states that these statutorily mandated common costs should be allocated to the default supply rates. Illinois law provides the Commission with authority to modify such preferential or discriminatory rates. See 220 ILCS 5/9-250.

RESA states that an allocation of customer care costs does not need to be an administratively burdensome process, as claimed by ComEd. RESA witness White developed a streamlined and easier to apply set of allocation factors based on the relationship of default service revenue to total distribution revenue to produce RESA Ex. MW 2.1. The Commission’s allocation of customer care costs is largely a policy determination in furtherance of competitive parity. The Commission may use its discretion to implement that goal. Thus, the Commission may consider a range of proposals in the future to simplify the process of allocating customer care costs to the default supply rate.

RESA states that if the Commission utilizes RESA witness White’s streamlined allocation factors, there is no risk of a last man standing problem, as argued by ComEd. The streamlined approach recommended by Mr. White would not lead to this problem because it utilizes the Revenue Allocation factor to allocate customer care costs. This allocation factor is determined by dividing default supply revenue by total distribution revenue. As customers switch, the Revenue Allocation Factor would decrease and thus allocate a smaller amount of customer care costs to the default supply rate.

RESA states that the Commission should reject ComEd's underdeveloped proposal to allocate customer care costs to ARES' customers. Under the three-way model ARES' customers would first pay for the customer care costs for distribution service in distribution rates; however, under the proposal ARES' customers would also be required to pay ComEd customer care costs related to supply service through a separate rider charged to ARES' customers. ComEd's three-part allocation does not address the lack of competitive parity between the default supply rate and ARES' prices. Instead it allocates an additional group of costs to customers taking service from an ARES in addition to the customer care costs that ARES' customers must already pay in their rates and charges. ComEd's proposal is also procedurally inappropriate as it first advanced its three-part theory in its rebuttal testimony which does not allow for a full vetting of that approach, rendering it ill-advised. From a practical stand-point ComEd stated in discovery in response to Staff's data requests that it does not keep track of customer care costs as they relate to customers taking service from an ARES or default supply service, so ComEd could not even implement its proposed allocation at this juncture even if it seriously desired to do so.

RESA states that ComEd and Staff have mischaracterized ICEA's position—nowhere in ICEA's testimony or Initial Brief is there any disagreement with RESA or its positions. ICEA has not taken a position whether the Commission should select the Allocation Study, the Alternative Study, or the Switching Study. ICEA, however, has indicated that, given the choice between a three-part allocation of customer care costs and no allocation of customer care costs (the Switching Study), the latter approach is more reasonable. Thus, ICEA's position appears to be to express a preference for the less objectionable of two objectionable outcomes, if limited to only those two outcomes. RESA states that it agrees with ICEA that between the Switching Study and the undefined three-part allocation concept, the former would be preferable. See RESA Ex. MW 2.0, p. 30. RESA states that there is no evidence to suggest that ICEA opposes RESA's proposal to allocate customer care costs to the default supply rate.

In conclusion, RESA urges the Commission to provide competitive parity between the treatment of the default supply rate and the treatment of all other competitive retail electric products. Competitive parity is essential for a robust and vibrant competitive retail market to develop over the long run. In order to achieve parity:

- The Commission should reject ComEd's Switching Study.
- The Commission should utilize an allocation study to allocate customer care costs between the delivery function and the supply function. While ComEd's updated Allocation Study (ComEd Ex. 16.01) provides a good starting point and would allocate over $21 million of customer care costs to the supply function, RESA's Modified Allocation Study is less skewed toward the delivery function. The Commission should adopt RESA's modified version of ComEd's Allocation Study, as shown in RESA Ex. MW 2.1. That study would allocate approximately $52 million in customer care costs to the default supply rate.[1]

If the Commission does not adopt RESA's Modified Allocation Study, RESA recommends that, at a minimum, the Commission adopt ComEd's updated Alternative Study (ComEd Ex. 16.03) which would allocate approximately $11 million to the supply function, as

[1] If the Commission adopts the more conservative allocation factors discussed in Mr. White's rebuttal testimony, RESA recommends that the Commission allocate $36.6 million to the default supply rate (RESA Ex. 2.0, p. 18-20).

modified in by the rebuttal testimony of Mr. White. RESA's Modified Alternative Study would allocate $34 million in call center costs[2] to the default supply rate.

ComEd Position

Staff Position

ICEA Position

Commission Analysis and Conclusion

The parties submitted five customer care cost studies in this proceeding:

- ComEd's Switching Study, advocated by ComEd and Commission Staff, various versions of which have been used by the Commission in previous ComEd cases, which would allocate zero costs to ComEd's default supply function;
- ComEd's Allocation Study, as updated to include indirect costs, as recommended by Staff and RESA, which would allocate approximately $21 million to the supply function;
- RESA's Modified Allocation Study, which revises some of ComEd's allocation factors for reasons explained in RESA's testimony, which would allocate approximately $52 million to ComEd's supply function;
- ComEd's Alternative Study, which would allocate approximately $11 million in ComEd's call center costs to the supply function; and
- RESA's Modified Alternative Study which would allocate approximately $34 million in ComEd's call center costs to the supply function.

In addition, ComEd's testimony discussed the concept of a three-part allocation which would allocate some amount of customer care costs to ComEd's distribution customers, some to

[2] If the Commission adopts the more conservative allocation factors discussed in Mr. White's rebuttal testimony RESA recommends that the Commission allocate $21 million in call center costs to the default supply rate (RESA Ex. 2.0, p. 18-20).

ComEd's bundled supply customers, and some to customers received ARES' supply. ICEA supports the Switching Study over ComEd's concept of a three-part allocation. However, the Commission agrees with RESA that the proposal is underdeveloped and could not be implemented in this proceeding. Moreover, as RESA points out, a three-part allocation would have the tendency to discourage customer choice and it could result in the over recovery of customer care costs from ARES' customers.

Having reviewed the evidence presented by all parties on the customer care cost issue, the Commission determines that RESA's position has the most merit. Both ComEd and ARES must incur customer care costs. ComEd and Staff proposed that 100% of ComEd's customer care costs be allocated to delivery service, while ARES must recover their customer care costs through competitive prices. This would provide discriminatory and preferential treatment to the default supply rate and require ARES' customers to pay twice for customer care costs. Illinois law provides the Commission with authority to modify such preferential or discriminatory rates. See 220 ILCS 5/9-250.

Therefore, the Commission rejects the Switching Study. It fails to account for the fact that a portion of ComEd's customer care costs are related to default supply customers and it ignores the fact that ARES must incur customer care costs. ComEd's argument that the default supply rate is not a competitive product in the market has no bearing on our determination. Customers must either choose to enroll in the default rate product or a product offered by an ARES. It is critical to establish a level playing field; thus, it is necessary to allocate a pro-rata portion of ComEd's customer care costs to the default supply rate. Otherwise, the default supply rate will avoid a category of costs that ARES must include in their competitive prices.

RESA PRIMARY POSITION

Turning to the four remaining studies—studies based on the allocation of costs, rather than avoided costs—the Commission accepts ComEd's Updated Allocation Study, as modified by RESA. The Commission, in Docket 13-0387, directed ComEd to submit an allocation study in this proceeding. ComEd's updating of its original Allocation Study to include indirect costs provided a good starting point. However, the Commission agrees with RESA that ComEd's Updated Allocation Study is based on allocation factors which are heavily skewed toward allocating customer care costs to the delivery function. The Commission agrees that RESA's allocation factors are more equitable and that RESA's Modified Allocation Study produces the most reasonable result.

Accordingly, the Commission adopts RESA's Modified Allocation Study. Thus, ComEd should allocate $52 million in customer care costs to its supply function.

RESA ALTERNATIVE POSITION

Having reviewed the evidence presented by all parties, the Commission, determines that ComEd's Updated Alternative Study provided a good starting point for allocating customer care costs to the default supply function. ComEd and ARES are statutorily required to incur call center expenses. And the evidence indicates that ComEd's call center expenses do in fact decrease as customers switch to an ARES. ComEd Ex. 8.0, p. 27-28. Allowing ComEd to recover these costs through distribution rates, while requiring ARES to recover these costs through competitive prices, would provide preferential and discriminatory treatment to the default supply rate. Further, it would require ARES' customers to pay twice for these costs. Finally, RESA, ComEd, and Staff each agree that the Alternative Study may provide an acceptable basis for allocating customer care costs to the default supply rate if the Commission rejects the Switching Study. While we adopt the Alternative Study, we also accept the more equitable allocation factors submitted by RESA witness White.

Accordingly, the Commission adopts RESA's Modified Alternative Study. Thus, ComEd should allocate $34 million in customer care costs to its supply function

Respectfully submitted,

Retail Energy Supply Association

By: /s/GERARD T. FOX
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NOTICE OF FILING

Please take note that on September 22, 2014, I caused to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission, the attached Proposed Order of the Retail Energy Supply Association in this proceeding.

Dated: September 22, 2014

/s/GERARD T. FOX
Gerard T. Fox

CERTIFICATE OF SERVICE

I, Gerard T. Fox, certify that I caused to be served copies of the foregoing Proposed Order of the Retail Energy Supply Association upon the parties on the service list maintained on the Illinois Commerce Commission's eDocket system for Ill. C. C. Docket 14-0312 via electronic delivery on September 22, 2014.

/s/ GERARD T. FOX
Gerard T. Fox

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